



General Assembly

February Session, 2004

Amendment

LCO No. 4998

SB0039104998SD0

Offered by:

SEN. DEFRONZO, 6th Dist.

To: Subst. Senate Bill No. 391

File No. 317

Cal. No. 249

***"AN ACT CONCERNING THE RETENTION OF SERVICE
CONTRACT WORKERS."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2004*) (a) As used in this section:

4 (1) "Awarding authority" means any person, including a contractor
5 or subcontractor, who awards or otherwise enters into a contract to
6 perform any of the following services for the state: Janitorial, building
7 maintenance, security, food and beverage, but does not include
8 services performed by any restaurant owned and operated by one or
9 more individuals or an organization other than a publicly-traded
10 corporation.

11 (2) "Contractor" means any person who enters into a service
12 contract, valued at one hundred sixty-five thousand dollars per year or
13 five hundred thousand dollars in the aggregate or more, with the
14 awarding authority and any subcontractors to such service contract at

15 any tier.

16 (3) "Employee" means any person engaged to perform any of the
17 following services: Janitorial, building maintenance, security, food and
18 beverage, but does not include services performed by any restaurant
19 owned and operated by one or more individuals or an organization
20 other than a publicly-traded corporation, but does not include a person
21 who is (A) a managerial, supervisory or confidential employee,
22 including any person who would be so defined under the National
23 Labor Relations Act, (B) employed for less than ten hours per week, or
24 (C) employed by a terminated contractor for less than ninety days
25 immediately preceding the termination date of the service contract.

26 (4) "Person" means any individual, proprietorship, partnership, joint
27 venture, corporation, limited liability company, trust association, the
28 state or other entity that may employ or enter into other contracts.

29 (5) "Service contract" means a contract let to a contractor by the
30 awarding authority for the furnishing of any service listed in
31 subdivision (3) of this subsection.

32 (6) "Successor service contract" means a service contract with the
33 awarding authority under which substantially the same services to be
34 performed have previously been rendered to the awarding authority
35 as part of the same program or at the same facility under another
36 service contract or have previously been rendered by the awarding
37 authority's own employees.

38 (7) "Terminated contractor" means a contractor whose service
39 contract expires without renewal or whose contract is terminated, and
40 includes the awarding authority itself when work previously rendered
41 by the awarding authority's own employees is the subject of a
42 successor service contract.

43 (8) "Successor contractor" means a contractor awarded a service
44 contract to provide substantially the same services previously
45 rendered to the awarding authority as part of the same program or at

46 the same facility under another service contract.

47 (b) Each awarding authority that enters into a service contract to be
48 performed within this state shall be subject to the following
49 obligations:

50 (1) The awarding authority shall give advance notice to a contractor
51 and the exclusive bargaining representative of any of the contractor's
52 employees, of the termination of such service contract and shall
53 provide the contractor and the exclusive bargaining representative
54 with the name, telephone number and address of the successor
55 contractor or contractors, if known. The terminated contractor shall,
56 not later than three days after receipt of such notice, provide the
57 successor contractor with the name, date of hire and employment
58 occupation classification of each person employed by the terminated
59 contractor at the site or sites covered by the service contract as of the
60 date the terminated contractor receives the notice of termination.

61 (2) On the date the service contract terminates, the terminated
62 contractor shall provide the successor contractor with updated
63 information concerning the name, date of hire and employment
64 occupation classification of each person employed by the terminated
65 contractor at the site or sites covered by the service contract, to ensure
66 that such information is current up to the actual date of service
67 contract termination.

68 (3) If the awarding authority fails to notify the terminated contractor
69 of the identity of the successor contractor, as required by subdivision
70 (1) of this subsection, the terminated contractor shall provide the
71 information described in subdivision (2) of this subsection to the
72 awarding authority not later than three days after receiving notice that
73 the service contract will be terminated. The awarding authority shall
74 be responsible for providing such information to the successor
75 contractor as soon as the successor contractor has been selected.

76 (4) (A) A successor contractor shall retain, for at least sixty days
77 from the date of first performance of services under the successor

78 service contract, all of the employees who were employed by the
79 terminated contractor at the site or sites covered by the service
80 contract.

81 (B) The provisions of this section shall not apply: (i) If the
82 Commissioner of Administrative Services or any awarding authority
83 has made a finding that the current contractor has been grossly
84 negligent in performing any duty under such contract, or (ii) to any
85 portion of a set-aside contract under the provisions of title 4a, 10, 17b
86 or 18 of the general statutes, except that such exclusion shall not apply
87 if a written agreement prohibits termination of employees except for
88 just cause.

89 (C) In the event the successor service contract is terminated prior to
90 the expiration of such sixty-day period, then any contractor awarded a
91 subsequent successor service contract shall be bound by the
92 requirements set forth in this subsection to retain, for a new sixty-day
93 period commencing with the onset of the subsequent successor service
94 contract, all of the employees who were previously employed by any
95 one or more of the terminated contractors at the site or sites covered by
96 the service contract.

97 (D) At least five days prior to the termination of a service contract,
98 or at least fifteen days prior to the commencement of the first
99 performance of service under a successor service contract, whichever is
100 later, the successor contractor shall hand deliver a written offer of
101 employment to each such employee in such employee's native
102 language or any other language in which such employee is fluent and
103 information concerning such employee's rights under the provisions of
104 this section. Each offer of employment shall state the time within
105 which such employee must accept such offer but in no case shall that
106 time be less than ten days from the date of the offer of employment.

107 (5) If at any time a successor contractor determines that fewer
108 employees are required to perform the successor service contract than
109 were required by the terminated contractor, the successor contractor

110 shall be required to retain such employees by seniority within each job
111 classification, based upon the employees' total length of service at the
112 affected site or sites.

113 (6) During such sixty-day period, the successor contractor shall
114 maintain a preferential hiring list of employees eligible for retention
115 pursuant to subdivision (4) of this subsection, who were not initially
116 retained by the successor contractor, from which the successor
117 contractor shall hire additional employees, if necessary.

118 (7) Except as provided under subdivision (6) of this subsection,
119 during such sixty-day period, the successor contractor shall not
120 discharge without just cause an employee retained pursuant to this
121 section. For purposes of this subdivision, "just cause" shall be
122 determined solely by the performance or conduct of the particular
123 employee. At the end of such sixty-day period, the successor
124 contractor shall prepare a written performance evaluation for each
125 employee retained pursuant to this section, and, if such employee's
126 performance is satisfactory, offer such employee continued
127 employment as may be consistent with titles 10 and 17b of the general
128 statutes.

129 (c) Any awarding authority or contractor who knowingly violates
130 the provisions of this section shall pay a penalty not to exceed one
131 hundred dollars per employee for each day the violation continues.

132 (d) The Labor Commissioner shall have the responsibility for the
133 enforcement of the provisions of this section and in connection with
134 such responsibility shall:

135 (1) Cause a notice containing the provisions of this section to be sent
136 to all persons currently engaged in performing any of the following
137 services within the state and to all persons who shall in the future
138 indicate on such application an intention to engage in such businesses,
139 including any subcontracts for such services: Janitorial, building
140 maintenance, security and food and beverage.

141 (2) Maintain a current list of all business privilege license holders for
142 performing services listed in subdivision (1) of this subsection.

143 (3) Investigate all complaints against any contractor or awarding
144 authority and in connection with such complaint or with respect to any
145 investigation shall have full power and authority to subpoena any
146 witness, books, records or other data of any person for the purposes of
147 obtaining information pertinent to such investigation. The Labor
148 Commissioner shall make a finding, in writing, with respect to each
149 complaint filed, and shall send a copy of the complaint to the
150 complainant and the contractor and shall maintain the original on file.

151 (4) Refer all complaints determined to have merit to the appropriate
152 state department for revocation of the offending contractor's business
153 privilege license.

154 (5) Monitor the operations of contractors and awarding authorities
155 to ensure compliance with the provisions of this section."

This act shall take effect as follows:	
Section 1	July 1, 2004